

36547

SERVICE DATE – DECEMBER 27, 2005

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-6 (Sub-No. 435X)]

BNSF Railway Company–Abandonment Exemption–in Rock Island and Whiteside Counties, IL

[STB Docket No. AB-987X]

Iowa, Chicago & Eastern Railroad Corporation–Discontinuance of Service Exemption–in Rock Island and Whiteside Counties, IL

BNSF Railway Company (BNSF) and Iowa, Chicago & Eastern Railroad Corporation (ICE) have jointly filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments and Discontinuances of Service for BNSF to abandon, and for ICE to discontinue service over, approximately 5.09 miles of railroad between milepost 20.31 and milepost 25.40, near Albany, in Rock Island and Whiteside Counties, IL. The line traverses United States Postal Service Zip Codes 61230, 61242, and 61252.

BNSF and ICE have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and

(4) the requirements of 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on January 26, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 6, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 17, 2006, with: Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.³

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemptions' effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

² Each OFA must be accompanied by the filing fee, which currently is set at \$1,200. See 49 CFR 1002.2(f)(25).

³ In response to the abandonment notice for the above-described rail line, the Village of Albany has filed requests for issuance of a public use condition under 49 U.S.C. 10905, and issuance of an interim trail use condition pursuant to section 8(d) of

(Continued . . .)

A copy of any petition filed with the Board should be sent to applicants' representatives: Michael Smith, 311 S. Wacker Dr., Suite 3000, Chicago, IL 60606-6677, and Karl Morell, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

If the verified notice contains false or misleading information, the exemptions are void ab initio.

BNSF and ICE have filed environmental and historic reports which address the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 30, 2005. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by December 27, 2006, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

(Continued . . .)

the National Trails System Act, 16 U.S.C. 1247(d). The Board will address both requests, and any others that may be timely filed, in a separate decision.

Board decisions and notices are available on our website at

[“WWW.STB.DOT.GOV.”](http://WWW.STB.DOT.GOV)

Decided: December 22, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary